

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 20895 of 2015

Date of Decision: 26.02.2018

Smt. Phool Kaur

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.S.S. Brar, Advocate,
for the petitioner.

Mr. Harish Rathee, Senior DAG Haryana.

Mr. Subhash Ahuja, Advocate
for respondent No.3.

RAJIV NARAIN RAINA, J. (Oral)

The petitioner has served for 23 years under an interim stay order. The stamina of the petitioner in six rounds of litigation is to be appreciated, but not praised for the objective. When she joined service of the Bank, she has put in 234 days when she filed her first case seeking regularization and stay of termination in the days of Piara Singh's judgment and secured an interim order of stay from this Court. The petition remained dormant in the record room for 23 years when it was decided on 13.09.2011. The direction was issued to the Bank to consider her claim for regularization keeping in view the judgment in Secretary, State of Karnataka Vs. Uma Devi, (2006) 4 SCC 1. Pursuant to this order, the impugned order has been passed rejecting the claim.

Her claim for regularization has not been found tenable since the Board of Directors of the respondent Co-operative Bank have not adopted the policies of Haryana Government on regularization. Besides, her entry into service as Clerk was dubious in nature. Her name was not recommended by the Selection Committee or appropriate competent authority prescribed under the Haryana State Central Co-operative Bank's Staff Service (Common Cadre) Rules, 1975. Against the order dated 15.02.2017, she approached this Court by filing the 2nd last writ petition being CWP No. 4623 of 2013 in which notice was issued. During the pendency of this case, she retired from service in 2014 and thereafter withdrew the petition. She dragged the Bank to the Registrar Cooperative Societies Haryana complaining that her dues were not paid to her. On notice, the Bank produced the record of the petitioner before the Registrar. While the matter was pending before the Registrar Cooperative Societies, she filed a contempt petition in this Court against the Registrar that he is not deciding her case despite there being direction to do so. On notice received, the Bank appeared before the Registrar. The matter was heard and decided against the petitioner by the Registrar which order adverse to her interest has not been challenged. Accordingly, the contempt petition was rendered infructuous and dismissed.

In view of the circumstances explained above, Mr. Ahuja points out that the petitioner by personal choice has been a member of

the Central Government Contributory Pension Scheme to which the Bank has no concern. Service of the Bank is non-pensionable.

Learned counsel for the petitioner reads the reply filed by the Bank in which they have admitted that leave encashment dues have been put in fixed deposit in the name of the petitioner but she is not allowed to access the money for the reason that some enquiries are pending against some officers of the bank for committing irregularities and the petitioner is also involved. But there is no charge-sheet served on the petitioner, either before or after retirement. Departmental proceedings are not pending against the petitioner and therefore the Bank is not justified in retaining the moneys and a direction is issued to the Bank to release the amount of leave encashment to the petitioner as soon as she approaches them to get her Fixed deposit encashed. Except this direction, there is no merit in the other claims of the petitioner for pension, regularization etc. and the same are dis-allowed.

As a result the petition dismissed except qua leave encashment.

(RAJIV NARAIN RAINA)
JUDGE

26.02.2018

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Whether speaking/reasoned : *Yes*

Whether reportable : *No*